Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	
Communications Policy Act of 1984 as amended	)	MB Docket No. 05-311
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	
	)	

COMMENTS OF
Public Access Corporation of the District of Columbia
IN RESPONSE TO THE FURTHER NOTICE OF PROPOSED RULEMAKING

The Public Access Corporation of the District of Columbia submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1. The Council of the District of Columbia is the franchising authority for Washington, D.C. There are two franchised cable operators within District of Columbia's jurisdiction. Those cable operators, along with the current expiration dates of their cable franchise and Open Video System franchise (47 U.S.C. § 573, Section 653) respectively are: Comcast Cablevision of the District, LLC (expiring October, 2012) and RCN Corporation (expiring June 2010).

The Public Access Corporation of the District of Columbia (DCTV) governs and operates two channels on each cable system with funding and services provided

under the two franchises. The channels and cable service reach throughout the city, carried on the basic tier. The channels reach not only residential households, but all public schools and government offices, which are wired and provided both cable and cable modem service divided pro rata as additional public services between the two franchises. DCTV may also connect to the District's Institutional network, which serves all of the District government's telephony, data and emergency preparedness needs, including region-wide (Maryland and Northern Virginia) connectivity for emergency response communications. The organization schedules 8,760 hours of video programming each year, with over 6,700 of those hours as new programming. All programming is created or provided by volunteer individuals and organizations (over 80% minority and protected populations as defined by federal law) using DCTV's facilities. Ninety five percent of the program providers are District residents. Additionally, DCTV operates the largest and most extensively used Community Bulletin Board in the city, operating two bulletin boards for a combined 8,760 hours, with messages provided by over 800 nonprofit and civic organizations per year. In addition to the access channels, DCTV is open the public 3,456 hours each year, and provides production and post-production facilities, and trains individuals and organizations to create programs and to effectively use the facilities, all of which are provided on a nondiscriminatory basis. DCTV also operates the city's most extensive media training programs for children and youth, primarily serving the most disenfranchised and underserved neighborhoods, including an annual summer camp; DCTV provided electronic media experience to

over 800 youth in the past two years. DCTV is the only public electronic media training program in the District.

2. The Public Access Corporation of the District of Columbia supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the

Order are valid, they cannot, and should not, be applied to incumbent cable operators. By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s]," not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice's tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from "prempt[ing] state or local customer service laws that exceed the Commission's standards," and from "preventing LFAs and cable operators from agreeing to more stringent [customer service] standards" than the FCC's.

Respectfully submitted,

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